HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO 16963 of 2006

Dated 24th July, 2007

Between

Chundru Venkateswara Rao and others

…Petitioners

and

District Collector, East Godavari District,
Kakinada and others.

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 16963 of 2006

ORDER:

In this Writ Petition, the petitioners question the notification issued under Section 4(1) of the Land Acquisition Act, 1894, notifying their lands in S.Nos.198/1A2, 192/3B2, 197/8C and S.No.192/3B2 of Surampalem village, Gandepalli Mandal in East Godavari District for the public purpose of construction of canal under Indira Sagar Project.

It is the grievance of the petitioners that the respondents have not followed the procedure contemplated under the A.P. Irrigation (Construction and Maintenance of Water Courses) Act, 1965 before notifying their lands. It is their further grievance that as much as enquiry under Section 5-A of the Land Acquisition Act, 1894 (for short "the Act") is dispensed with, they are deprived of raising such objection.

In the counter affidavit filed on behalf of the respondents, it is stated that in view of the urgency, by invoking the power under Section 17(4) of the Act, enquiry under Section 5-A of the Act is

dispensed with. However, it is submitted by the learned Government Pleader appearing for the respondents that the respondents are prepared to conduct enquiry under Section 5-A of the Act

Impugned notification is issued for acquiring the land of the petitioners, by invoking urgency clause under Section 17(4) of the Land Acquisition Act and dispensing with the enquiry under Section 5-A of the LA Act. As much as it is submitted by the learned Government Pleader appearing for the respondents that the respondents are prepared to conduct enquiry under Section 5-A of the Land Acquisition Act, 1894, I dispose of the writ petition setting aside the notification in proceedings Ref.No.B2/260/2006 dated 2-5-2006 only to the extent of dispensing with the enquiry under Section 5-A of the Act by invoking urgency clause under Section 17(4) of the Land Acquisition Act, 1894, so far as the lands of the petitioners are concerned. I direct the respondents to conduct enquiry as contemplated under Section 5-A of the Land Acquisition Act, 1894 and it is open for the petitioners to raise all objections with regard to acquisition of their lands in the said enquiry. It is open to the enquiring authority to consider such objections independently. It is also clarified that the respondents can take further steps subject to outcome of the enquiry under Section 5-A of the Act.

The Writ Petition is accordingly disposed of. No order as to costs.

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JUSTICE R. SUBHASH REDDY

DATE:24-7-2007.
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